

for hearing to the other parties. Failure to do so will toll the ALJ's 90-day adjudication deadline until all parties to the QIC reconsideration receive notice of the requested ALJ hearing. If the request for hearing is timely filed with an entity other than the entity specified in the QIC's reconsideration, the deadline specified in § 405.1016 for deciding the appeal begins on the date the entity specified in the QIC's reconsideration receives the request for hearing. If the request for hearing is filed with an entity, other than the entity specified in the QIC's reconsideration, the ALJ hearing office must notify the appellant of the date of receipt of the request and the commencement of the 90-day adjudication time frame.

(c) *Extension of time to request a hearing.* (1) If the request for hearing is not filed within 60 calendar days of receipt of the QIC's reconsideration, an appellant may request an extension for good cause. (See §§ 405.942(b)(2) and 405.942(b)(3)).

(2) Any request for an extension of time must be in writing, give the reasons why the request for a hearing was not filed within the stated time period, and must be filed with the entity specified in the notice of reconsideration.

(3) If the ALJ finds there is good cause for missing the deadline, the time period for filing the hearing request will be extended. To determine whether good cause for late filing exists, the ALJ uses the standards set forth in § 405.942(b)(2) and § 405.942(b)(3).

(4) If a request for hearing is not timely filed, the adjudication period in § 405.1016 begins the date the ALJ grants the request to extend the filing deadline.

[70 FR 11472, Mar. 8, 2005, as amended at 70 FR 37703, June 30, 2005]

**§ 405.1016 Time frames for deciding an appeal before an ALJ.**

(a) When a request for an ALJ hearing is filed after a QIC has issued a reconsideration, the ALJ must issue a decision, dismissal order, or remand to the QIC, as appropriate, no later than the end of the 90-day period beginning on the date the request for hearing is received by the entity specified in the QIC's notice of reconsideration, unless

the 90-day period has been extended as provided in this subpart.

(b) The adjudication period specified in paragraph (a) of this section begins on the date that a timely filed request for hearing is received by the entity specified in the QIC's reconsideration, or, if it is not timely filed, the date that the ALJ grants any extension to the filing deadline.

(c) When an appeal is escalated to the ALJ level because the QIC has not issued a reconsideration determination within the period specified in § 405.970, the ALJ must issue a decision, dismissal order, or remand to the QIC, as appropriate, no later than the end of the 180-day period beginning on the date that the request for escalation is received by the ALJ hearing office, unless the 180-day period is extended as provided in this subpart.

(d) When CMS or its contractor is a party to an ALJ hearing and a party requests discovery under § 405.1037 against another party to the hearing, the adjudication periods discussed in paragraphs (a) and (c) of this section are tolled.

[70 FR 11472, Mar. 8, 2005, as amended at 70 FR 37703, June 30, 2005]

**§ 405.1018 Submitting evidence before the ALJ hearing.**

(a) Except as provided in this section, parties must submit all written evidence they wish to have considered at the hearing with the request for hearing (or within 10 days of receiving the notice of hearing).

(b) If a party submits written evidence later than 10 days after receiving the notice of hearing, the period between the time the evidence was required to have been submitted and the time it is received is not counted toward the adjudication deadline specified in § 405.1016.

(c) Any evidence submitted by a provider, supplier, or beneficiary represented by a provider or supplier that is not submitted prior to the issuance of the QIC's reconsideration determination must be accompanied by a statement explaining why the evidence was not previously submitted to the QIC, or a prior decision-maker (see § 405.1028).

(d) The requirements of this section do not apply to oral testimony given at